

### **REMARKS/ARGUMENTS**

In the Office Action mailed February 17, 2006, claims 109, 292 and 293 were rejected under 35 U.S.C. 102(a) over U.S. Patent No. 5,856,174 to *Lipshutz*. This rejection is respectfully traversed because the methods of microfabricating an elastomeric structure recited in the above claims would not make the structure shown in Fig. 2B of the reference.

Claims 109, 292 and 293 of the present invention all include microfabricating a first elastomeric layer having (1) a recess formed therein that forms a flow channel and (2) also having a deflectable membrane formed integral with the first layer. See claim 109, lns. 3-5; claim 292 lns. 3-5; and claim 293, lns. 3-5. In contrast, the structure shown in Fig. 2B of *Lipshutz* shows a flow channel formed in one layer (*i.e.*, first planar member 106) and a deflectable membrane (*i.e.*, diaphragm 114) formed in a separate, second planar member 112. Thus, the microfabrication methods described in claims 109, 292, and 293, which have a flow channel and deflectable membrane formed in the same elastomeric layer, would not make the structure shown in *Lipshutz*. Conversely, the methods used in *Lipshutz* to make a structure with a flow channel and flexible membrane formed in different layers (as shown in Fig. 2B) do not describe or suggest the methods described in claims 109, 292, and 293. For at least this reason, claims 109, 292, and 293 are allowable over *Lipshutz*, and withdrawal of the rejection of the claims under 35 U.S.C. 102(a) over the reference is respectfully requested.

### **CONCLUSION**

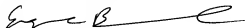
In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

Appl. No. 09/605,520  
Amdt. dated May 18, 2006  
Reply to Office Action of February 17, 2006

PATENT

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Eugene J. Bernard', with a long horizontal flourish extending to the right.

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